

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

REGAL FABRICS, INC.,

Plaintiff,

V.

CIVIL ACTION
NO. 04-10961-RWZ

KOBA, INC., an Illinois corporation;
IBR CORPORATION, d/b/a Harbortown Division,
an Illinois corporation; and
SHOPKO STORES, INC, a Wisconsin corporation,

Defendants.

**ANSWER AND AFFIRMATIVE DEFENSES OF
REGAL FABRICS, INC. TO COUNTERCLAIM**

Plaintiff/Defendant-in-Counterclaim Regal Fabrics, Inc. (“Regal”), hereby files its Answer and Affirmative Defenses to the Counterclaim filed by Defendants/Plaintiffs-in-Counterclaim, Koba, Inc. (“Koba”); IBR Corporation d/b/a Harbortown Division (“Harbortown”), and Shopko Stores, Inc. (“Shopko”), collectively (the “Defendants”), and in support thereof states as follows:

ANSWER

Parties

1. Regal admits the allegations contained in Paragraph 1 of the Counterclaim

2. Regal admits the allegations contained in Paragraph 2 of the Counterclaim.

3. Regal admits the allegations contained in Paragraph 3 of the Counterclaim.

4. Regal admits the allegations contained in Paragraph 4 of the Counterclaim.

Facts

5. Regal admits that it alleges copyright infringement of the fabric design registered with the U.S. Copyright Office as VA-092-293 and dated August 14, 2001 and otherwise denies the allegations in Paragraph 5 of the Counterclaim.

6. Regal denies the allegations contained in Paragraph 6 of the Counterclaim.

7. Regal denies the allegations contained in Paragraph 7 of the Counterclaim.

Counterclaim I

(Declaratory Judgment; Invalidity of Copyright)

8. Regal incorporates its responses to Paragraphs 1 through 7 of the Counterclaim as if set forth fully herein.

9. Regal denies the allegations contained in Paragraph 9 of the Counterclaim.

FIRST AFFIRMATIVE DEFENSE

The Counterclaim fails to state claims upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs-in-counterclaim's claims are barred by the doctrine of estoppel.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs-in-counterclaim are barred by the doctrine of unclean hands.

Dated: Boston, Massachusetts
August 19, 2004

REGAL FABRICS, INC.,

By its attorneys,

/s/David M. Magee .

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Victor H. Polk, Jr., BBO #546099

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